

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
DOCKET NO. 3:15-cv-00407-FDW-DCK

BRUCE MORGAN,)
)
Plaintiff,)
)
vs.)
)
JOSEPH FIALKA, JOSEPH KERRIGAN,)
GARLAND PHILLIPS, and JEB)
JOHNSON.,)
)
Defendant.

ORDER

THIS MATTER is before the Court *sua sponte* as to the status of this case. Plaintiff, who is proceeding pro se, originally filed his Complaint in this Court on September 3, 2015, along with a Motion to Proceed In Forma Pauperis (“IFP”). On October 16, 2016, the Court issued an Order (Doc. No. 3) denying the Motion for Leave to Proceed IFP but allowing Plaintiff to pay the filing fee over “four monthly installments of \$100.” (Doc. No. 3, p. 3). Without restating the specifics of that short Order, the Court indicated initial pleading problems with the original complaint and provided instructions to Plaintiff as to what needed to be submitted to the Court if he intended to proceed on his employment discrimination claims. Id. p. 2. Finally, the Court specifically warned Plaintiff: “Failure to pay the filing fee in full within the time allotted shall result in dismissal of this action.” Id. p. 3.

Following issuance of that Order, Plaintiff filed one monthly installment of \$100; but to date, he has not submitted the remaining three monthly installments, and the time for doing so has expired. As cautioned in the Order, this alone is sufficient reason to dismiss this case.

Furthermore, despite being granted permission in the October Order, Plaintiff never amended his complaint or submitted the Title VII form sent by the Clerk's office. To the extent Plaintiff sought to rely on his original Complaint, pursuant to Rule 4(m) of the Federal Rules of Civil Procedure, Plaintiff was required to complete service of process on Defendants within 120 days from the filing of the Complaint, i.e. by January 4, 2016. It is now over three months past that deadline, and the docket does not indicate that service has been completed, also providing grounds for dismissal under Rule 41(b).

IT IS THEREFORE ORDERED that this case shall be DISMISSED WITHOUT PREJUDICE.

IT IS SO ORDERED.

Signed: April 5, 2016



Frank D. Whitney
Chief United States District Judge

